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Binkerd, Robert

Studebaker

Home rule for cities

New York

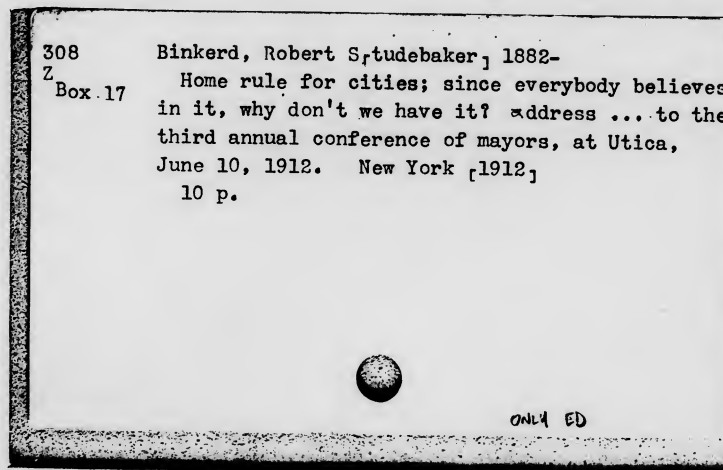
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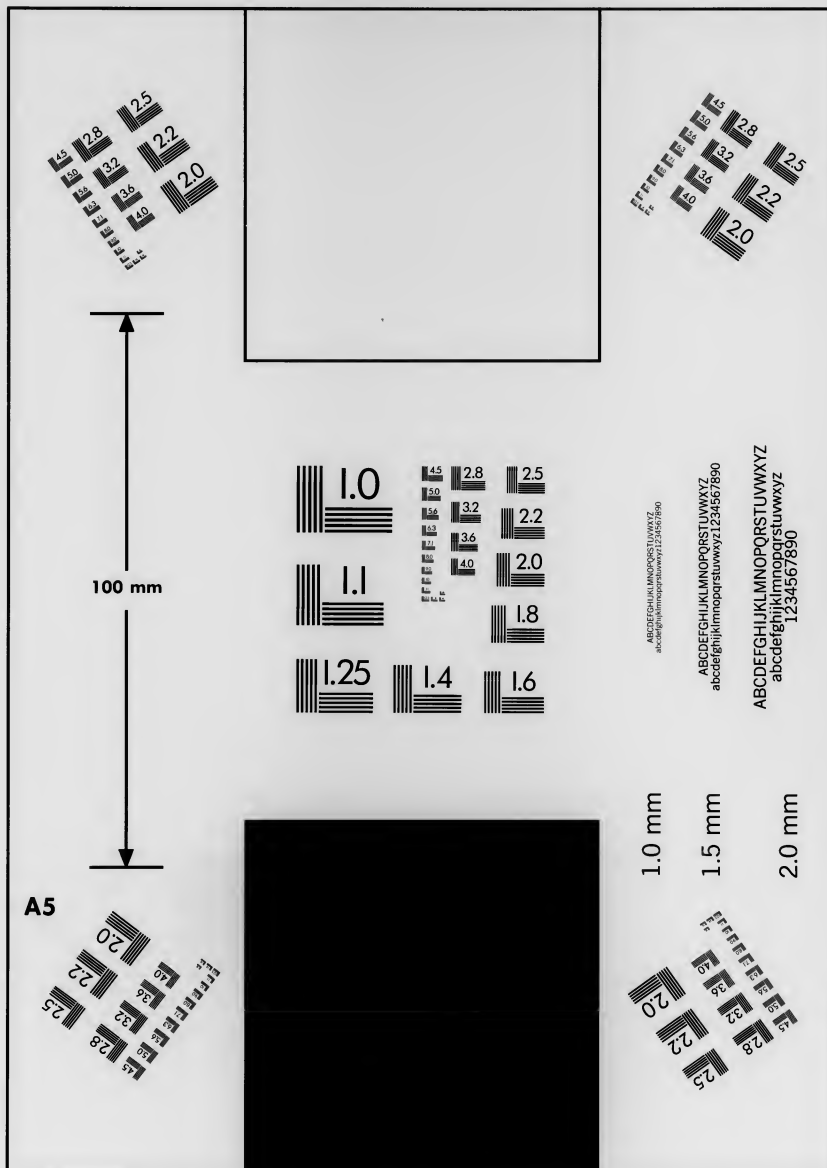
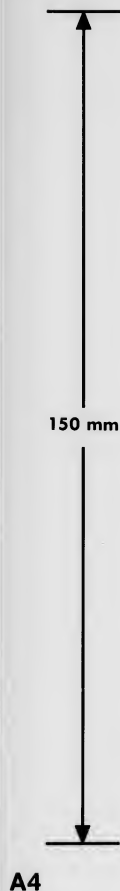
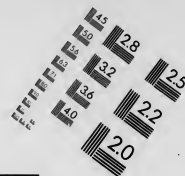
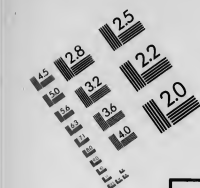
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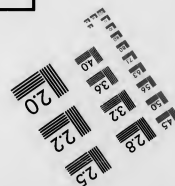
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HOME RULE FOR CITIES

Since Everybody Believes in It,
WHY Don't We Have It?

Address by Robert S. Binkerd

to the Third Annual Conference
of Mayors, at Utica,
June 10, 1912



Published by
The Municipal Government Association
of New York State
38 PARK ROW, NEW YORK

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Box 17

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Since Everybody Believes in Home Rule, Why Don't We Have It?

Mr. Chairman and Gentlemen of the Mayors' Conference:

It is a pleasure to address you, not only because it is a good thing in itself to see important public officials discussing their common problems, but because this conference is rich in possibilities for this State. Not since the days of Governor Tilden has there been so great and so intelligent an interest in municipal government. There are signs that the cities of the State are realizing their common municipal interests and will make a united demand for a stable system of municipal government, capable of expansion, and built upon that freedom in local matters which has always been the basis of self-governing citizenship. In this field of fundamentally constructive statesmanship the Mayors' Conference has the opportunity of natural leadership.

Basis of Civil Liberty

For, gentlemen, local self-government and municipal home rule are more than academic theories or meaningless planks in political platforms. The great German historian Niebuhr, after his long study of the Roman republic and empire wrote his profound conviction that "local self-government is the basis of civil

liberty." Guizot, the French historian, has expressed the same conviction; and how powerfully local self-government can influence not only civil rights but the power of a nation we see in the case of Prussia. Nothing is more striking than the manner in which a truly great statesman (von Stein) seized upon municipal self-government as one of the principal methods by which Prussia should be rejuvenated at the time it was under the heel of Napoleon. Every Mayor and member of the Legislature in the State of New York could profitably invest the time necessary to read von Stein's life in Andrew D. White's "*Seven Great Statesmen in the Warfare of Humanity Against Unreason.*"

Self-Government Not Achieved

But we are in the State of New York; in the year 1912; and over a century after von Stein secured local self-government for Prussia we have not yet secured it for the cities of this state.

You pertinently ask me why.

As your title states, "everyone believes in it." When I read the Governor's speech at Poughkeepsie last year I felt that we must be on the verge of it. When I read Speaker Frisbie's speech, I felt sure that the day of mandatory and unwise legislative interference was over. But on taking up the first 142 laws of 1912 I find that 51 of these deal in a specific and irritating manner with local government. The salaries of the members of the Legislature for the year 1912 amounted to over \$300,000, while the entire legislative session for 1912 easily cost the state half a million. Outside of one important city measure, what did this investment yield to municipal government? It yielded this: that Hoosick Falls may pave \$50,000 worth of its streets¹; that the City of Albany may sell property to the County of Albany²; that Port Chester may borrow

¹ Chap. 8, Laws of 1912.

² Chap. 10, Laws of 1912.

money to repair a fire house³; that East Chester may buy a fire engine costing not over \$8,000⁴; that Buffalo may change the salary of its Superintendent of Education⁵; that village trustees may not sprinkle village streets⁶; that Cortland may give money to the Helping Hand Association⁷; and that Saratoga Springs may license dogs⁸.

What Home Rule Means

Home rule really means that the powers of local governments shall be large enough to enable localities to manage their own affairs; that they shall then be allowed to manage those affairs without legislative interference; thus causing all municipal citizens to feel a healthy sense of responsibility for the conditions in which they live, as well as the certainty that they have it in their power to work distinct changes and improvements in those conditions.⁹

This brings us to the fundamental reason why we do not have home rule now—because home rule is impossible for cities of limited and crippled powers. So long as the slightest change in a local situation requires a city to go to Albany for the necessary power to meet that situation there can and will be little self-sufficient local government. Many cities in this state cannot issue bonds or levy taxes for the commonest municipal functions without special authority from the Legislature; even when permitted to issue such bonds the rate of interest is often mandatorily fixed in the act

³ Chap. 29, Laws of 1912. ⁴ Chap. 125, Laws of 1912.

⁵ Chap. 28, Laws of 1912. ⁶ Chap. 142, Laws of 1912.

⁷ Chap. 32, Laws of 1912. ⁸ Chap. 127, Laws of 1912.

⁹ "What we need to arouse local interest is the application of the same remedy which has been applied in England, *i. e.*, the grant to municipalities of such a degree of local autonomy or home rule as will cause all municipal citizens to feel a healthy sense of responsibility for the evils from which they suffer, as well as an assured conviction that they have it in their power to work a sensible improvement in their condition." Goodnow: "Municipal Home Rule," page 9.

of authorization. Many cities cannot themselves municipally perform many functions they can contract to have performed; nor can they without special authority even commercially dispose of the by-products of a municipal function like street cleaning or the collection of ashes and garbage. And where is the city in this state that can control its own payroll, abolish all unnecessary boards or offices, divide departments, create new ones, or reorganize its system of raising or expending money?

Cities Bound Hand and Foot

The truth is that our cities are bound hand and foot, and if the people of this state thoroughly understood the present situation—the undemocratic denial of the real rights of self-government while every political platform pays lip-tribute to it—they would not tolerate the situation for another year.

But we have all been led astray by the theory and practice of the Legislature granting separate city charters. The intention of the State constitution is that the Legislature shall establish a *system* of municipal government. This intention is nullified by the general legislative practice of treating each city as wholly distinct from all other cities. The result is that the Legislature without the slightest inconvenience repeats for one city, during the same session, the flagrant errors it may have just corrected for another city.

Influences in Charter-Making

I shall not dilate upon the kind of consideration which most local bills receive; nor on the fact that the personality and votes of the local representatives in the Legislature are perhaps the most important facts considered by legislative leaders in determining what local bills shall be passed.

But what are the influences which surround the ordinary charter which the Legislature grants? It is the politician, demanding certain assured salaries and positions; the contractor demanding certain assured public contracts; the property owner demanding hard and fast limitations on taxes and assessments; the public service corporation demanding the assurance that the city shall not have power to own or operate a public utility. What is the result? Everything nailed down in the city charter, the salaries of every official fixed, and even assessments for sidewalks limited to 20 cents a foot!

The application of such picayune ideas to municipal legislation for all our many cities would be, if not impossible, at least much more difficult. I therefore believe the theory of individual city charters to be partly responsible for our lack of home rule and very considerably responsible for the absurdly limited powers of our city governments.

Non-Partisan City Elections

Another important reason why we do not have municipal home rule is because we do not have municipal elections conducted without the agency of national political parties. The determination of municipal elections through the same party organizations which determine state and national elections hinders the development of a vigorous self-conscious municipal life. It therefore *ipso facto* diminishes the demand for municipal home rule. Cities accustomed to electing their city administrations as Republican or Democratic easily become accustomed to having their principal local affairs interfered with and decided by Republican or Democratic legislatures. If, on the other hand, city administrations were elected on municipal issues and by groups of citizens acting without regard to national political parties, there would be instant

opposition to the attempts of party controlled legislatures to interfere with local government.

Constitutional Change Needed

A further reason why we do not have municipal home rule is because the constitution of the state invites legislative interference with the fiscal affairs of cities. Section I of Art. XII of the Constitution reads as follows:

"Organization of cities and villages—Section 1. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit so as to prevent abuses in assessments and in contracting debt by such municipal corporations; *and the Legislature may regulate and fix the wages and salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State, or by any contractor or subcontractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof.*"

This constitutional provision is, I believe, very dear to organized labor. I am sure that none of us have the slightest desire to so cripple the legislative power as to make it impossible for the Legislature to prevent inhuman or unhealthful labor conditions, even when such labor is employed by a city. But, on the other hand, to insure that such conditions shall not obtain does not require the grant to the Legislature of the right to say, down to the last dollar and cent the salary or wages that a city must pay to every person in its employ.

I have perhaps fulfilled my commission in, at least partially explaining why we do not now have home rule for our cities. But I cannot close without pointing out to you how relatively easy it would be, how clear and obvious are the methods necessary, to secure home rule.

Remedies—Municipal Empowering Act

We do not have home rule now because it is impossible for cities of small and restricted powers. One general statute empowering cities throughout the State to do the ordinary things which so few of our cities can do without special authorization would immediately change the situation. Up to a few years ago our legislative calendars were full of special bills affecting public service corporations. We established the Public Service Commission and immediately the number of such bills decreased. We had as Governor for three years a man who consistently vetoed special bills affecting matters within the power of the Public Service Commission so that to-day the amount of special legislation concerning public service corporations is less than half what it was in the year 1903 or 1904. The passage of a municipal empowering act and one Governor who will consistently veto special bills which are unnecessary because of that act will carry us a substantial distance toward municipal home rule.

Let Cities Choose Their Charters

We do not have home rule now because the Legislature insists upon treating cities separately. A general municipal organization act which will specify in outline three or four desirable types of municipal organization that can be adopted by cities at their option will carry us beyond the necessity for the Legislature granting separate individual city charters. At least so far as cities of the second and third class are concerned, this would not be difficult of accomplishment.

We do not have home rule now because the conduct of municipal elections by national party organizations hinders the development of vigorous, self-conscious municipal life. A chapter to the existing election law which permitted the direct nomination of municipal

candidates in non-partisan primaries and their election on an office group ballot without national party designations would inevitably lead to the growth and development of a vigorous self-conscious municipal life in our various cities.

We do not have home rule now because the constitution invites legislative interference with local salaries and wages. Section 1 of Art. XII of the Constitution can be so amended as to leave the Legislature ample power to prescribe proper labor conditions and at the same time definitely preclude the Legislature from fixing local salaries and wages.

Mayors With Tied Hands

I know that every Mayor here has a right desire to serve his city well; to have his administration one which will be looked upon as having made a real contribution to his city's well being. I am certain that each one of you, in your own official experience, has seen many things which needed correction. This correction you have attempted, only to find one of your hands tied behind you. You have perhaps had your corporation counsel prepare remedial legislation and have then learned that to the Legislature your bill is a matter of utter indifference, or at most of trade and barter.

The question is, what are you going to do about it? The Legislature in a decade will not and could not pass the local bills necessary to correct existing deficiencies in city government. If each of you make a little local fight now and then, you may get a few local bills, but the general situation will still be that which I have described.

Program of Relief

There is only one way out—and that is to combine on a few measures of fundamental importance, which

would then leave your city and every other city in possession of adequate powers to control its own affairs. Such a program is, in my judgment, contained in the memorandum submitted to this Conference by The Municipal Government Association.

If you object that to actively further such a program would be to put the Mayors' Conference "into politics," I should answer that it is not "politics," but statesmanship. You all know that for years our national parties have used city governments as the pawns of the Legislature, and as the feeding troughs for sustaining corrupt or unrepresentative party organizations. The program here presented to you asks your co-operation, not "in politics," but in taking city government out of "politics" for good.

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